

On March 3, 2008 appellant, then a 58-year-old letter carrier, filed a claim alleging that he sustained a left shoulder injury in the performance of duty: “While carrying DPS [delivery point sequence] mail in my left hand and cradling letters and flats in my left arm, put a strain on my shoulder for quite some time.” He indicated that he first became aware of this injury on January 7, 2008. Appellant thought something might be torn. He did not stop work. The employer provided a position description and the physical requirements of the job.

On February 12, 2008 Dr. Patrick T. Hurlbut, a Board-certified orthopedic surgeon, examined appellant and found left shoulder impingement signs. He found scapular winging and pain with elevation of his arm overhead and with abduction. X-rays showed a normal left shoulder with no fractures, dislocations or acute changes. Dr. Hurlbut diagnosed left shoulder rotator cuff tear versus tendinitis. He recommended physical therapy. If there was no improvement in four to six weeks, Dr. Hurlbut would recommend a magnetic resonance imaging (MRI) scan to evaluate for rotator cuff pathology.

In a decision dated June 2, 2008, the Office denied appellant's claim for compensation on the grounds that the medical evidence did not establish that the claimed medical condition resulted from the accepted events. It stated: "None of the supporting medical evidence, that you submitted, addressed the issue as to what caused the pain in your left shoulder. We did not receive any medical evidence, based upon objective findings, that supported that you have a medical condition caused or aggravated by your [f]ederal employment activities."

On July 23, 2008 Dr. Hurlbut reported that appellant complained of increased left shoulder pain when working with his arms overhead, which was a common position for him to work in. On examination he noted weakness in the periscapular muscles, suggesting muscular deconditioning as a cause of impingement syndrome. Dr. Hurlbut stated, "[Appellant] may have predisposing condition, which can lead to the impingement problems versus a rotator cuff tear." He then addressed causal relationship:

"[Appellant's] work involves overhead work as a [letter] carrier could exacerbate or cause problems with his shoulder. It should be noted that he may have an underlying predisposition to the problem because of the periscapular weakness, which was noted. It should also be noted that if [appellant] develops a rotator cuff tear or rotator cuff tendinitis that periscapular control could be lost as a response to the injury.

"It is in my opinion that [appellant] is more likely than not to have had an injury to the shoulder which was caused or exacerbated by his work while employed as a [letter] carrier. The above is stated within [a] reasonable degree of medical certainty."

In a decision dated November 5, 2008, the Office reviewed the merits of appellant's claim and denied modification of its prior decision. It found that Dr. Hurlbut speculated what condition appellant might have in his left shoulder and could develop. However, he did not provide a firm diagnosis causally related to appellant's work activities.

LEGAL PRECEDENT

The Federal Employees' Compensation Act provides compensation for the disability of an employee resulting from personal injury sustained while in the performance of his duty.¹ An employee seeking benefits under the Act has the burden of proof to establish the essential elements of his claim. When an employee claims that he sustained an injury in the performance

¹ 5 U.S.C. § 8102(a).

of duty, he must submit sufficient evidence to establish that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. He must also establish that such event, incident or exposure caused an injury.² It is the employee's burden to establish a firm diagnosis of the medical condition claimed.³

Causal relationship is a medical issue⁴ and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion of the physician must be based on a complete factual and medical background of the claimant,⁵ must be one of reasonable medical certainty⁶ and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.⁷

Medical conclusions unsupported by rationale are of little probative value.⁸ It is not necessary that the opinion be so conclusive as to suggest causal connection beyond all possible doubt. The evidence required is only that necessary to convince the adjudicator that the conclusion drawn is rational, sound and logical.⁹ The mere fact that a condition manifests itself or worsens during a period of federal employment raises no inference of causal relationship between the two.¹⁰

ANALYSIS

The Office does not dispute the duties appellant performed as a letter carrier. The employer provided a position description and the physical requirements of the job. So appellant has met his burden to establish that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. The question that remains is whether his duties as a letter carrier caused a left shoulder injury.

There is only one medical report that addresses this issue. On July 23, 2008 Dr. Hurlbut stated with a reasonable degree of medical certainty that appellant was more likely than not to

² *Abe E. Scott*, 45 ECAB 164 (1993); *John J. Carlone*, 41 ECAB 354 (1989); see 5 U.S.C. § 8101(5) ("injury" defined); 20 C.F.R. § 10.5(ee), .5(q) (1999) ("traumatic injury" and "occupational disease or illness" defined).

³ *Patricia Bolleter*, 40 ECAB 373 (1988).

⁴ *Mary J. Briggs*, 37 ECAB 578 (1986).

⁵ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁶ See *Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁷ See *William E. Enright*, 31 ECAB 426, 430 (1980).

⁸ *Ceferino L. Gonzales*, 32 ECAB 1591 (1981); *George Randolph Taylor*, 6 ECAB 968 (1954).

⁹ *Kenneth J. Deerman*, 34 ECAB 641, 645 (1983) and cases cited therein.

¹⁰ *Steven R. Piper*, 39 ECAB 312 (1987).

have had left shoulder injury caused or exacerbated by his work as a letter carrier. He noted that it was common for appellant to work with his arms overhead and that appellant complained of left shoulder pain when doing so. Dr. Hurlbut, however, did not firmly diagnose appellant's left shoulder condition. X-rays on February 12, 2008 showed a normal left shoulder. Dr. Hurlbut's diagnosis that day was left shoulder rotator cuff tear "versus" tendinitis. He was uncertain which, so he recommended a course of physical therapy in the hope that appellant's pain would resolve without further intervention, but if not, he would recommend an MRI scan to evaluate for rotator cuff pathology. Dr. Hurlbut was no more specific on July 23, 2008. He noted that appellant might have a predisposing weakness in the periscapular muscles "which can lead to the impingement problems versus a rotator cuff tear." So the specific nature of appellant's left shoulder pathology remains unclear.

Moreover, Dr. Hurlbut did not offer a sound orthopedic explanation of how working with arms overhead caused appellant's particular left shoulder pathology. It is difficult to offer such an explanation without a firm diagnosis of the pathology one is discussing. All Dr. Hurlbut noted that appellant experienced increased pain when working in that position, but this does not establish that such symptoms were anything more than revelatory of an underlying condition.¹¹ It does not establish that the work activity caused or even materially aggravated the underlying condition.

Although Dr. Hurlbut expressed his opinion with a reasonable degree of medical certainty, the lack of a firmly diagnosed left shoulder condition diminishes the probative value of his opinion, as does the lack of a sound orthopedic explanation of how working with arms in an overhead position at work caused or materially aggravated that particular condition. For this reason, the Board finds that appellant has not met his burden of proof to establish the element of causal relationship. The Board will affirm the denial of his claim that he sustained a left shoulder injury in the performance of duty.

Appellant argues on appeal that his physician did not have to provide that much of a statement for the Office to approve his claim for a right shoulder injury. He argues that he has given written documentation of the wear and tear of his shoulder from his work. But this is for Dr. Hurlbut to discuss. He is the one who must explain how the particular duties appellant performed biomechanically or physiologically caused or materially aggravated a firmly diagnosed medical condition in the left shoulder. It is certainly true, as appellant points out, that other letter carriers have sustained shoulder injuries in the performance of duty, but each of those letter carriers had a burden of proof to submit a well-reasoned medical narrative explaining how those injuries occurred. He shares the same burden. Appellant's reference to a January 11, 2008 hearing before an Office hearing representative, the filing of Equal Employment Opportunity claim and the changing of his route appears to relate to a different claim and is not particularly relevant to the issue presently before the Board.

¹¹ *Phillips G. Putnam*, 10 ECAB 631 (1959).

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that he sustained a left shoulder injury in the performance of duty. The medical opinion evidence is insufficient to establish causal relationship.

ORDER

IT IS HEREBY ORDERED THAT the November 5 and June 2, 2008 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: October 1, 2009
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board